



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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APR 17 2003

Paper No. 7

In re Application of :
William Vreeland *et al* : DECISION ON PETITION
Application No. 09/320,822 :
Filed: May 27, 1999 :
For: Razor Glide Strip :
:

This is a decision on the petition filed on March 27, 2003 by which petitioners request withdrawal of the holding that this application stands abandoned for failure to file a timely and proper reply to the Office letter dated January 6, 2000. A Notice of Abandonment was mailed on October 24, 2000. The relief requested is pursuant to 37 CFR 1.181, without fee.

The petition under 37 CFR 1.181 is dismissed as having been untimely filed.

Petitioner's attention is invited to MPEP § 711.03(c) which states that if a petition to withdraw a holding of abandonment is not filed within the period stated in 37 CFR 1.181(f), it will be dismissed as untimely filed unless accompanied by the appropriate terminal disclaimer. Petitioner should further note that the requisite terminal disclaimer has certain specific language differing from that found in the typical terminal disclaimer filed to overcome an obvious type double patenting rejection, and should consult MPEP § 711.03(c) for the precise language which would be acceptable in the event that a renewed petition under 37 CFR 1.181 is filed.

It is noted that the record correspondence address of this application is:

Charles W. Almer
Warner-Lambert Company
201 Tabor Road
Morris Plains, NJ 07950

which differs from counsel's address as set forth on the petition. The Morris Plains, New Jersey address is the correspondence address set forth in the originally filed 37 CFR 1.63 declaration of record, and the record does not show that a change of correspondence address was filed. Further, Office assignment records agree with the above record correspondence address.

This matter has relevance in that if the Notice of Abandonment was not received due to petitioners' failure to seasonably inform the Office of a change of correspondence address, then the failure to seasonably file the instant petition cannot be excused on the basis of the failure to receive the Notice of Abandonment and the above mentioned terminal disclaimer must be submitted. See, and compare, MPEP § 711.03(c), at page 700-149, wherein the failure to notify the Office of a change of correspondence address is discussed in relation to 37 CFR 1.137; certainly the discussion there is also applicable with respect to a petition under 37 CFR 1.181 based upon error by the Office. See also MPEP § 601.03 regarding reasonable notification of a change of correspondence address.

In addition, while petitioners refer to copies of a request for a continued prosecution application (CPA), petition for extension of time under 37 CFR 1.136(a), Express Mail label and unstamped postcard receipt provided as Appendix B to the declaration of Raymond D. Thompson which

was attached to the petition, and also refer to Appendix C as containing a copy of the postcard receipt stamped to show that the above mentioned papers were received in the Office on July 5, 2000, the undersigned has found none of the three Appendices mentioned as having been attached to that declaration. Accordingly, when petitioners file a renewed petition under 37 CFR 1.181 (which must be done within two months of the date of this decision pursuant to 37 CFR 1.181(f)) petitioners are advised to include copies of the aforementioned Appendices.

The application is being retained in Technology Center 3700 pending the filing of a renewed petition. If petitioners cannot demonstrate that a change of correspondence address was seasonably filed prior to the mailing of the Notice of Abandonment, then the renewed petition must be accompanied by a terminal disclaimer as discussed above.

PETITION DISMISSED.



E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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